

1 CHAIRPERSON JAMES: I'm going to ask you to please take
2 your seats and let's get started. Quiet in the back of the room.

3 We have with us now Mr. Hal Shoup, Executive Vice
4 President of the American Association of Advertising Agencies,
5 and Mr. Steve Bookshester.

6 MR. BOOKSHESTER: Yes, ma'am.

7 CHAIRPERSON JAMES: Associate General Counsel of the
8 National Association of Broadcasters.

9 Welcome, both of you gentlemen, and thank you for being
10 with us. Please remember you've been allotted about ten minutes'
11 time to sort of summarize your recommendations, and then after
12 that we will engage in some discussion.

13 I would remind the audience if this is your first
14 Commission meeting, this is not how we generally operate. We
15 tend to be much more formal than this, but we are in a very
16 informal setting, hoping to encourage discussion, hoping to
17 encourage debate, and so I would remind Commissioners that they
18 should feel free to jump right in whenever they feel the need to
19 do that.

20 I would ask that you allow the gentlemen to get through
21 their presentations first, however.

22 Before we start, I have had a request from Commissioner
23 Loescher to say a few things, and with that, Commissioner
24 Loescher.

25 COMMISSIONER LOESCHER: Yes, Madame Chair. Thank you
26 very much.

27 Just for a brief moment, I'd like to say that this
28 morning the United States Senate committee passed S. 544, which
29 is the bill, the Senator Enzi bill, sponsored by a number of

1 Senators, which deals with an issue that this Commission had
2 addressed by a vote to forestall the Secretary of Interior to
3 promulgate regulations that approve anymore compacts with tribes
4 and states.

5 And, anyway, I think it's a significant action this
6 morning by the Congress, and in the first sentence of the bill,
7 to sort of emphasize the importance of this Commission, the
8 language says that "notwithstanding any other provision of law,
9 prior to eight months after Congress receives the report of the
10 National Gambling Impact Study Commission, the Secretary of
11 Interior shall not promulgate regulations," whatnot.

12 So people are watching what this Commission does, and
13 the influence of this Commission is felt nationally even before
14 our report is coming due, and I wanted to just acknowledge that
15 this event had occurred in the Congress today.

16 And also I'd like to acknowledge our chairman of our
17 Indian subcommittee. Dr. Moore and Mr. Wilhelm and I have been
18 struggling very hard on this issue, and we hope to come forth
19 with recommendations addressing this matter for the full
20 Commission to review, but it just emphasizes and highlights the
21 importance of this Commission that the Congress of the United
22 States would await our report on this matter.

23 CHAIRPERSON JAMES: Thank you, and that is a heavy
24 burden to carry, and I think all of the Commissioners recognize
25 their responsibility.

26 With that, gentlemen, please proceed.

27 MR. SHOUP: Thank you.

1 I'll start. I'm Hal Shoup. I am Executive Vice
2 President of the American Association of Advertising Agencies,
3 generally referred to as the Four As for short.

4 We obviously have a profound and abiding interest in
5 the advertising not just of gaming activities and lotteries, but
6 also all legal products and services.

7 Our association has 550 advertising agencies across the
8 country that are members. In the aggregate, they do about 75
9 percent of all national advertising. They do a large share of
10 the regional and local advertising that is done, and
11 significantly from your standpoint, 35 of the 38 entities that
12 have state lotteries are represented by members of the American
13 Association of Advertising Agencies, and several times that
14 number are involved in the advertising of casinos and related
15 activities.

16 Advertising agencies and their clients have a long and
17 abiding interest in truthful advertising, non-deceptive
18 advertising. First of all, advertising that lies and deceives is
19 fundamentally morally wrong. It's counterproductive to the needs
20 of the advertiser, to the advertising agency certainly, and to
21 the general public.

22 Significantly, it is against the law at the federal
23 level. The Federal Trade Commission has its laws and regulations
24 that demand that advertising be truthful and non-deceptive, and
25 they deal primarily with the national law.

26 At the state level, the AGs, under a number of what
27 have become little AG acts, have similar responsibility for
28 enforcement of advertising law at the state level.

1 The final point that I think that you have to consider
2 when you're talking about advertising that lies and deceives is
3 the fact that it does not qualify for protection by the First
4 Amendment of the Constitution, but the truthful, non-deceptive
5 advertising about any legal product, and that would include
6 so-called vice products, does have protection by the First
7 Amendment.

8 I'm not going to dwell on this subject because Steve is
9 going to touch on this later, except to mention the fact that our
10 association and seven other industry and trade groups has
11 presented to the Commission for your review a paper on the
12 subject of gambling advertising and First Amendment protection.

13 What I would like to do is to discuss some
14 possibilities for you in terms of the area of advertising and
15 what might be done to solve any of this problem that can in any
16 way be attributed to the advertising of lotteries or of gaming
17 activities.

18 Certainly the first of those would be for us, the
19 advertising industry, the advertisers, the agencies, the media,
20 to continue to support and cooperate with the Federal Trade
21 Commission as far as national advertising regulation is concerned
22 and with the state AGs in terms of state level advertising.

23 Secondly, we think there can be a very positive effect
24 on the advertising in the gaming industry by the establishment of
25 voluntary codes or best practices, I guess, if we could use the
26 word from the earlier discussion.

27 The American Gaming Association is well along the way
28 in terms of developing a rather detailed advertising code that
29 has, I understand, been approved by their membership, and they

1 search now only for the most appropriate way to impose this code
2 and to monitor and follow up on adherence to the code.

3 It's a little much tougher job when you're talking
4 about codes for 38 different governments that are monitoring or
5 involved in the lottery business. That's much more difficult.
6 However, we feel that it is possible to develop certain
7 principles that could serve as helpful guidelines to the states
8 in the execution of their lottery advertising.

9 We have been involved in self-regulation since 1971
10 when the advertising industry imposed upon itself a rather
11 detailed system of self-regulation. It was formed by the
12 initiatives taken by our association, the Association of National
13 Advertisers, and the American Advertising Federation. It became
14 an entity of the Better Business Bureau, and since 1971 has
15 actually resolved over 3,500 cases.

16 We mention that only because when it comes to
17 self-regulation of advertising, the industry does have a lot of
18 experience and has a very good track record in this particular
19 area.

20 We certainly think that it's appropriate to conduct
21 additional research on the causes of problem gambling. We think
22 we could perhaps be of help in that particular area.

23 And finally, we think that educational programs about
24 compulsive gambling and problem gambling could assist to a large
25 extent in this particular area. Again, these are the kind of
26 campaigns that can be developed to run in an attempt to solve a
27 particular societal problem. It could include mass media, but it
28 can include a great deal more.

1 We have been involved in many of these campaigns over
2 the years. Probably the most prominent is the campaign that we
3 cooperate with and actually create on behalf of the Office of
4 National Drug Policy Control. We were the organization, aided
5 and abetted by others in our industry, that started the
6 Partnership for a Drug Free America.

7 So we are not unfamiliar with societal problems and the
8 role advertising can play in their solution.

9 It seems to me those kinds of recommendations, the ones
10 that I've just made, are the kinds of things that the Commission
11 may want to consider, should consider, and perhaps include some
12 of those in the eventual report that they make to the Congress.